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Reply to New York Office

February 11, 2008

The Honorable Richard J. Sullivan, J.S.C.  
United States District Court  
For the Southern District of New York  
U.S. Courthouse  
500 Pearl Street  
New York, New York 10007

Re: **CARLOS CAPA V. STEVEN BROADY**  
Civil Action No. 1:07 CV 10354  
Our File No. MNY 28-489 JDD/DJB

Dear Justice Sullivan:

We represent the defendant, Steven Broady, in the above-captioned matter. We have conferred with counsel for the plaintiff, Carlos Capa, Marshall Bluth, Esq., and submit this Joint Status Letter, prior to the scheduled February 21st Initial Conference before your Honor, pursuant to your directives.

This case arises out of a December 27, 2006 motor vehicle accident on West 14th Street in Manhattan. The plaintiff commenced this lawsuit by filing a summons and complaint in Bronx County. On behalf of Mr. Broady, we answered and removed this case to the Southern District of New York. The plaintiff makes allegations of personal injuries including lumbar and cervical disc bulges, and a meniscal tear.

Counsel have conferred, and agreed to the attached Proposed Case Management Plan and Scheduling Order. Both parties have also started the exchange of discovery--the plaintiff has served discovery responses and signed, HIPAA compliant authorizations; the defense has exchanged a Rule 26 Disclosure.

We look forward to appearing before you on February 21st.

Respectfully yours,

/S/Joseph De Donato

JOSEPH DE DONATO (7319)

ELP

cc Via Email/Regular Mail (w/enc.):

Marshall S. Bluth, Esq.  
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474135

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Carlos Capa

Plaintiff[s],

-v-

Steven Broady

Defendant[s].

No. 107 Civ. 1354 (RJS)  
CASE MANAGEMENT PLAN AND  
SCHEDULING ORDER  
ECF

RICHARD J. SULLIVAN, District Judge:

At the conference before the Court held on 2/21/08, this Case Management Plan and Scheduling Order was adopted in accordance with Rules 16-26(f) of the Federal Rules of Civil Procedure.

1. All parties (consent) (do not consent) to disposition of this case by a Magistrate Judge, pursuant to 28 U.S.C. § 636(c) [circle one]. [If all consent, the remainder of the Order need not be completed at this time.]
2. This case (is) (is not) to be tried to a jury [circle one].
3. No additional parties may be joined except with leave of the Court.
4. Amended pleadings may not be filed except with leave of the Court.
5. Initial disclosures pursuant to Rule 26(a)(1) will be completed not later than 3/6/08 [absent exceptional circumstances, within fourteen (14) days of the date of the parties' conference pursuant to Rule 26(f)].
6. All *fact* discovery is to be completed no later than 6/20/08 [a period not to exceed 120 days unless the Court finds that the case presents unique complexities or other exceptional circumstances].

7. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court, provided the parties meet the fact discovery completion date in ¶ 6 above:
- a. Initial requests for production of documents to be served by 3/21/08.
  - b. Interrogatories to be served by 3/21/08.
  - c. Depositions to be completed by 5/11/08.
    - i. Unless the parties agree or the Court so orders, depositions are not to be held until all parties have responded to initial requests for document production.
    - ii. There is no priority in deposition by reason of a party's status as plaintiff or defendant.
    - iii. Unless the parties agree or the Court so orders, non-party depositions shall follow initial party depositions.
  - d. Requests to Admit to be served no later than 5/15/08.
8. All *expert* disclosures, including reports, production of underlying documents and depositions are to be completed by:
- a. Expert(s) of Plaintiff(s) 6/16/08.
  - b. Expert(s) of Defendant(s) 6/16/08.
9. All discovery is to be completed no later than 6/20/08.
10. The Court will schedule a post-discovery status conference (see ¶ 16) within three weeks of the close of all discovery.
11. Pre-motion letters regarding dispositive motions, if any, are to be submitted no later than two weeks prior to the post-discovery status conference date listed in ¶ 16. In accord with this Court's Individual Rule 2.A, response letters thereto are to be submitted within three business days from service of the initial pre-motion letter.
12. All counsel must meet for at least one hour to discuss settlement not later than two weeks following the close of fact discovery. Accordingly, Counsel for the parties

have discussed holding a settlement conference before a Magistrate Judge or the Southern District's Mediation Program and request: [check one]

- a.   X   Referral to a Magistrate Judge for settlement discussions
- b.            Referral to the Southern District's Mediation Program

13. The parties shall submit a Joint Pretrial Order prepared in accordance with the undersigned's Individual Practice Rule 3 and Rule 26(a)(3). If this action is to be tried before a jury, proposed *voir dire*, jury instructions, and a verdict form shall be filed with the Joint Pretrial Order. Counsel are required to meet and confer on jury instructions and verdict form in an effort to make an agreed upon submission.

14. Parties have conferred and their present best estimate of the length of trial is

          4-5 days          

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**TO BE COMPLETED BY THE COURT:**

15. [Other directions to the parties:]

16. The post-discovery status conference is scheduled for \_\_\_\_\_  
at \_\_\_\_\_.

SO ORDERED.

DATED: New York, New York  
\_\_\_\_\_, 200

\_\_\_\_\_  
RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE

November 27, 2007